

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ARROWHEAD GENERAL INSURANCE AGENCY, INC.,	:	CIVIL ACTION NO. 1:15-CV-1726
	:	
	:	(Chief Judge Conner)
Plaintiff	:	
	:	
v.	:	
	:	
LINCOLN GENERAL INSURANCE COMPANY,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 13th day of April, 2016, upon consideration of the motion (Doc. 28) to lift stay filed by plaintiff Arrowhead General Insurance Agency, Inc. (“Arrowhead”), wherein Arrowhead requests the court to lift the stay of the above-captioned matter—entered November 25, 2015 and effective pending resolution of liquidation proceedings in the Commonwealth Court of Pennsylvania against defendant Lincoln General Insurance Company (“Lincoln General”), (see Doc. 27; see also Doc. 26), and asserts that “[a]ny delay in the process for reaching a final resolution [in the instant case] prejudices Arrowhead,” (Doc. 31 at 9), and that Lincoln General fails to demonstrate the necessity of a stay, (see id. at 7-8), and further upon consideration of the status report (Doc. 32) filed by Lincoln General on February 29, 2016, wherein Lincoln General states that the appointed liquidator of Lincoln General, Teresa D. Miller, Insurance Commissioner of the Commonwealth of Pennsylvania (“Liquidator”), “is engaged in the time-consuming process of assessing the assets, business and affairs of [Lincoln General] . . . [and] must

review and analyze . . . numerous litigation matters in order to make the assessments necessary [to] . . . determine how to proceed in this . . . matter[]," (id. at 3-4), and requests that the stay remain in place, (see id. at 4), or, alternatively, that "the [c]ourt extend the stay . . . until on or about May 26, 2016, to allow the Liquidator to appropriately evaluate what further steps may be necessary in this case," (id.), and the court observing that the Burford abstention doctrine, see Burford v. Sun Oil Co., 319 U.S. 315 (1943), requires federal district courts to avoid interfering with "determinations of inherently local matters made by state courts pursuant to a complex state regulatory scheme" when adequate state court review is available and federal adjudication would prove disruptive, Univ. of Md. at Balt. v. Peat Marwick Main & Co., 923 F.2d 265, 270 (3d Cir. 1991) (citing New Orleans Pub. Serv., Inc. v. Council of New Orleans, 491 U.S. 350, 361 (1989)), and it appearing that "the regulation of insurance companies unable to meet their obligations entails the type of strong state interest in which application of Burford abstention is appropriate," Gen. Reins. Corp. v. MS Cas. Ins. Corp., No. CIV.A.05-2253, 2005 WL 2039156, at *2 (E.D. Pa. Aug. 23, 2005) (quoting Lac D'Amiante du Quebec, Ltee v. Am. Home Assurance Co., 864 F.2d 1033, 1045 (3d Cir. 1988)), but that the Third Circuit has declined "to lay down a *per se* rule that district courts must always abstain from an action against an insurance company the instant a state court places the company in liquidation proceedings," Gen. Glass Indus. Corp. v. Monsour Med. Found., 973 F.2d 197, 201 (3d Cir. 1992) (quoting Lac D'Amiante, 864 F.2d at 1045); see Feige v. Sechrest, 90 F.3d 846, 851 (3d Cir. 1996), and it further appearing that courts applying Burford abstention principles must balance federal

interests in resolving a particular dispute with competing concerns for the “independence of state action,” Quackenbush v. Allstate Ins. Co., 517 U.S. 706, 727-28 (1996) (quoting Burford, 319 U.S. at 334); Koken v. Cologne Reins. (Barbados), Ltd., 34 F. Supp. 2d 240, 248, 255 (M.D. Pa. 1999), and the court recognizing that “enforcement of arbitration agreements is a ‘substantial federal concern,’ ” Koken, 34 F. Supp. 2d at 247, 254-55 (quoting Quackenbush, 517 U.S. at 728-29), pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*, and that §§ 9 and 10 thereof, which allow a petitioner to seek judicial confirmation or vacatur of an arbitration award, are intended to provide streamlined mechanisms for said enforcement, see Hall St. Assocs., L.L.C. v. Mattel, Inc., 552 U.S. 576, 581-82, 588 (2008), and the court finding that continuation of the instant stay is warranted to avoid interference with state court liquidation proceedings concerning Lincoln General, to wit: to afford the Liquidator an opportunity to determine how the matter *sub judice* may influence Lincoln General’s estate, (see Doc. 30 at 7-9; Doc. 32 at 4), but that a limited stay is necessary to allow the instant action—brought pursuant to §§ 9 and 10 of the Federal Arbitration Act—to proceed as expeditiously as possible under the

circumstances, it is hereby ORDERED that Arrowhead's motion (Doc. 28) to lift stay is GRANTED in part and DENIED in part, as follows:

1. The above-captioned action remains STAYED until Thursday, May 26, 2016. (See Doc. 27 ¶ 1).
2. Counsel for Lincoln General shall submit an additional status report concerning the liquidation proceedings referenced in Document 26 on or before Thursday, May 19, 2016. (See *id.* ¶ 2).
3. Absent intervening action by the Liquidator, the court will direct the Clerk of Court to REOPEN this matter on May 26, 2016, and to REINSTATE Arrowhead's petition (Doc. 3) to confirm arbitration award and Lincoln General's motion (Doc. 18) to vacate arbitration award. (See *id.* ¶ 3).
4. The Clerk of Court is directed to mail a copy of this order to the Liquidator at the following address:

Teresa D. Miller, Insurance Commissioner
Pennsylvania Insurance Department
1326 Strawberry Square
Harrisburg, PA 17120

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania